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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,410	12/11/2003	Terri P. Cleveland	89843.108402	1166

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JAECKLE FLEISCHMANN & MUGEL, LLP  
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Rochester, NY 14614-1310

EXAMINER

DOOLEY, JAMES C

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/734,410	<b>Applicant(s)</b> CLEVELAND ET AL.	
	<b>Examiner</b> James C. Dooley	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/05/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

*Handwritten signature/initials*

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:

The term "Cabinet" in the specification and claims is used at variance to the accepted meaning. Although, cabinet is a general term for a storage devices. It is the opinion of the examiner that the use of the word cabinet implies at least three side walls, usually a door, and a plurality of either shelves or drawers. A simple image search using the Internet supports this accepted meaning. Therefore, it is the opinion of the examiner that a more appropriate term should be found for item 11.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The terminology in the claims describes a cabinet within an enclosure. Considering the accepted meaning of "cabinet" as described above this terminology does not distinctly claim the subject matter of the invention.

### ***Claim Rejections - 35 USC § 103***

Art Unit: 3634

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1,4-8, 10-11, 14-15 rejected under 35 U.S.C. 103(a) as being unpatentable over Kurzman (US patent number 5,057,977). Kurzman teaches a display rack featuring:

- a. A cabinet with first and second surface slidably positioned within the interior of an enclosure (12)
- b. Storage compartments on the cabinet (40,42)
- c. The cabinet is pivotally coupled with the rail (col. 3 ln. 29-30)
- d. The surfaces of the cabinets (excluding the end cabinets) are at a distance from the side wall of the enclosure.

Regarding claims 1, 10, 14 wherein a gun rack is claimed. Kurzman does not show a gun rack. Kurzman includes a drawer (42) and a cabinet (40). Accordingly, it would be obvious to one with ordinary skill in the to use these storage means to store and display any type of object.

Regarding claims 5, 7,10 wherein it discusses at least one track coupled to a side wall or to a protrusion from the side wall. Kurzman shows only tracks coupled to the top wall. As can be seen in the cited prior art a number of possible configurations for tracks in enclosure are well known. Use of different configurations is seen only as being an appropriate modification to any design. Fixing the track to the side wall or protrusions

therefrom is not seen as offering any surprising improvements to designs of similar configurations. Accordingly it would be obvious to one with ordinary skill in the art to fix a track to the most convenient surface. The motivation being to keep the rails out of sight.

6. Claims 2-3, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurzman in view of Crosby (US patent number 6,042,207). Kurzman teaches a cabinet slideably withheld in an enclosure. Kurzman does not teach any modifications possible to use the cabinet in conjunction with firearm storage. Crosby teaches a gun safe featuring a plurality of barrel receiving members (40) and also a lower lip for supporting the gun (seen as the interior floor of the cabinet). The lower lip, as described in Applicants disclosure, is seen to be not more than a flat surface for supporting the weight of the gun. Accordingly, it would be obvious to one with ordinary skill in the art to modify the design of Kurzman to further included gun retaining means or any other retaining means depending on what would be contained within. The motivation being to make the cabinet of Kurzman more suitable for firearm storage.

7. Claims 9,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurzman in view of Elkin (US patent number 4,899,971). Kurzman teaches a cabinet slideably withheld in an enclosure. Kurzman does not show brackets configured for receiving gun barrel supporting members. Elkin disclose a bracket (12), which is configured for display purposes. The configuration of the bracket of Elkin is of suitable shape for receiving the barrel members receiving as shown in figure 6 of Applicant's disclosure. Accordingly, it would be obvious to one with ordinary skill in the art to

modify the design of Kurzman to include a bracket and barrel supporting members. The motivation being ease of manufacture thereby reducing the need to fix each barrel support individually, while also providing ease in moving the barrel supports depending on size and shape of guns being stored.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Dooley whose telephone number is 571-2721679. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Richard Chilcot  
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Technology Center 2200